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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/257,127	02/25/1999	KANJI MIHARA	450114-4503	1754
20999	7590	10/24/2003	EXAMINER	
FROMMERM LAWRENCE & HAUG 745 FIFTH AVENUE- 10TH FL. NEW YORK, NY 10151			LEE, Y YOUNG	
			ART UNIT	PAPER NUMBER
			2613	
DATE MAILED: 10/24/2003				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.  
09/257,127

Applicant(s)

Kanji Mihara et al

Examiner

Y. Lee

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

1)  Responsive to communication(s) filed on Sep 26, 2003

2a)  This action is FINAL.      2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

### Disposition of Claims

4)  Claim(s) 1-3 and 10-12 is/are pending in the application.

4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-3 and 10-12 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)  The proposed drawing correction filed on Sep 26, 2003 is: a)  approved b)  disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)  The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

13)  Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)  All b)  Some\* c)  None of:

1.  Certified copies of the priority documents have been received.

2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

14)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

a)  The translation of the foreign language provisional application has been received.

15)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

1)  Notice of References Cited (PTO-892)

4)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_

2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)

5)  Notice of Informal Patent Application (PTO-152)

3)  Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_

6)  Other: \_\_\_\_\_

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## **DETAILED ACTION**

### ***Election/Restriction***

1. Applicant's election without traverse of Group I, species I in Paper No. 8 is acknowledged.

### ***Priority***

2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Drawings***

3. The proposed drawing correction and/or the proposed substitute sheets of drawings, filed on 9/26/03 have been approved. A proper drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The correction to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-3 and 10-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Reininger et al (5,426,463) for the same reasons as set forth in Section 10 of the last office action, paper number 9, dated 6/23/03.

Reininger et al, in Figure 2, discloses the same device and method for controlling image encoding for use in a system provided with a plurality of encoding means (12-19) for encoding a plurality of program data 10 as specified in claims 1-3 and 10-12 of the present invention, each including image data, and multiplexing means 22 for multiplexing output data of each of the encoding means 15, in which a target code rate (e.g. initial threshold value) is set to each of the encoding means as a target amount of codes to be generated per unit time R so as to control each of the encoding means, the image encoding control method including a temporary target-code-rate determining step  $R_j$  for acquiring encoding difficulty which indicates encoding difficulty in encoding for each program data, and for determining a temporary target code rate ( $r$ ) for each program data which corresponds to the acquired encoding difficulty for each program data by using a corresponding relationship (e.g. for I, P, B) between the encoding difficulty and a target code rate set for each program data in accordance with a maximum value  $R_{GOP}$ , a minimum value (e.g. zero) and an average value E of the target code rate determined for each program data and an average value of the encoding difficulty ThV for each program data and in such a manner that the larger the encoding difficulty is, the larger the target code rate becomes (e.g. Q step size

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adjustment), and that in a specific range in which the encoding difficulty 28 is larger than an average value of the encoding difficulty ThV, a target code rate 27 corresponding to the same encoding difficulty is lowered as compared with a case in which the encoding difficulty and the target code rate have a proportional relationship, whereas in a specific range in which the encoding difficulty 28 is smaller than the average value of the encoding difficulty ThV, the target code rate 27 corresponding to the same encoding difficulty is raised as compared with a case in which the encoding difficulty and the target code rate have a proportional relationship; and a target-code-rate correcting step 25 of correcting the temporary target code rate determined in the temporary target code rate determining step in such a manner that the sum of target code rates of each program data 28 is within a specific allowable value range (e.g. mb<sub>size</sub>, col. 4) so as to determine a final target code rate Q of each program data, and for setting the final target code rate (i.e. Q<sub>I</sub>, Q<sub>P</sub>, Q<sub>B</sub>) to each of the encoding means 14.

***Response to Arguments***

6. Applicant's arguments filed 9/26/03 have been fully considered but they are not persuasive.

Applicant asserts on pages 7 and 8 of the Remarks that Reininger et al fails to disclose a plurality of program data. However, Figure 2 of Reininger et al illustrates program data C<sub>R</sub>, C<sub>B</sub>, and Y are continuously input to a plurality of encoding means 12-19.

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*Conclusion*

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. **Any response to this final action should be mailed to:**

**Box AF**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

**or faxed to:**

(703) 872-9306, (for formal communications; please mark "EXPEDITED PROCEDURE")

(for informal or draft communications, please label  
"PROPOSED" or "DRAFT")

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**Or:**

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive,  
Arlington, VA., Sixth Floor (Receptionist).

9. Any inquiry concerning this communication or earlier communications from the examiner  
should be directed to Y. Lee whose telephone number is (703) 308-7584.



**Y. LEE**  
**PRIMARY EXAMINER**

Y. Lee/yl  
October 21, 2003